

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

-----x 21-CR-520 (WFK)

3 UNITED STATES OF AMERICA,

4 Plaintiff,

United States Courthouse
Brooklyn, New York

5 -against-

October 19, 2021
12:00 p.m.

6 CREDIT SUISSE SECURITIES
7 (EUROPE) LIMITED,

8 Defendant.
-----x

9 TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
10 BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

11 APPEARANCES

12 For the Government: UNITED STATES ATTORNEY'S OFFICE
13 Eastern District of New York
271 Cadman Plaza East
14 Brooklyn, New York 11201
BY: HIRAL D. MEHTA, ESQ.
15 MARGARET MOESER, ESQ.
DAVID FUHR, ESQ.
16 Assistant United States Attorneys

17 For the Defendant: PAUL HASTINGS, LLP
2050 M Street NW
18 Washington, DC 20036
BY: MATTHEW JOHN HERRINGTON, ESQ.
19 - and -
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, N.W.
20 Washington, DC 20004
BY: MARK R. FILIP, ESQ.

21 Also Present: FATIMA HAQUE
22 GWYNETH HOCHHAUSLER

23 Court Reporter: LINDA D. DANIELCZYK, RPR, CSR, CCR
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25 Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

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1 (In open court.)

2 THE COURTROOM DEPUTY: All rise.

3 United States District Court for the Eastern
4 District of New York is now open for the transaction of all
5 such business which may come before it. The Honorable William
6 F. Kuntz, II presiding.

7 Criminal cause on for a pleading. Case number
8 21-CR-520. U.S.A. versus Credit Suisse Securities (Europe)
9 Limited.

10 Counsel, please state your appearances for the
11 record, starting with the government.

12 MR. MEHTA: Good afternoon, Your Honor. Hiral Mehta
13 for the United States of America. And I'm joined by my
14 colleague from the Department of Justice.

15 MS. MOESER: Margaret Moeser, United States, Your
16 Honor.

17 MR. FUHR: Good afternoon, Your Honor. David Fuhr
18 from the Department of Justice.

19 MR. MEHTA: I'm also joined by special agent.

20 MS. HAQUVE: Fatima Haque with the FBI.

21 THE COURT: Good afternoon. You may be seated.

22 MR. HERRINGTON: Good afternoon, Your Honor.

23 Matthew Herrington from Paul Hastings for the defendant.

24 MR. FILIP: Good afternoon, Your Honor. Mark Filip
25 from Kirkland & Ellis for the defendant.

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1 And just to be clear, sir, I believe my pro hac
2 papers are in the clerk's office now but they haven't been
3 formally granted yet. As an officer of the court, I can tell
4 you that I am in good standing, but I just wanted to be clear.

5 THE COURT: You are admitted.

6 MR. FILIP: Thank you, sir.

7 THE DEFENDANT: Alan Reifenberg from Credit Suisse.

8 THE COURT: Good afternoon, you may be seated.

9 Members of the public may be seated as well.

10 Make sure your microphones are turned on when you
11 speak. The little green light is the subtle indicator that
12 it's working and it's on.

13 Are there any other counsel who wish to states their
14 appearances for the record today?

15 (No response heard.)

16 THE COURT: Hearing none.

17 And appearances having been taken, defense counsel,
18 I understand your client wishes to waive indictment and to
19 enter a plea; is that correct?

20 MR. HERRINGTON: That's correct.

21 THE COURT: You can remain seated. Just pull the
22 microphone towards you when you speak, and just -- we'll
23 proceed in that fashion.

24 Before we proceed, please identify who will be
25 speaking on behalf of defendant Credit Suisse Securities

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1 (Europe) Limited, whom I will refer to as the "defendant" for
2 the remainder of this first proceeding. And there'll be
3 immediately followed up second proceeding.

4 So who is the authorized representative under board
5 certifications to the assist in pleading guilty on behalf of
6 the defendant?

7 MR. HERRINGTON: Your Honor, that's Alan Reifenberg
8 to my right. He is the global head of litigation and
9 investigations for Credit Suisse.

10 THE COURT: Would you please spell your name, sir,
11 for the record.

12 THE DEFENDANT: Certainly.

13 THE COURT: And state your title.

14 THE DEFENDANT: Sure. It's Alan, A-L-A-N,
15 Reifenberg, R-E-I-F, as in frank, E-N-B-E-R-G.

16 And I'm managing director and global head of
17 litigation and investigations for Credit Suisse.

18 THE COURT: Thank you, sir.

19 Now, Mr. Reifenberg, defense counsel has advised the
20 Court that the defendant, Credit Suisse (Europe) Limited,
21 wishes to waive indictment and to plead guilty to the
22 information in which it is charged.

23 This is a very serious decision and I must be
24 certain that the waiver of indictment and the guilty plea are
25 being made with the full understanding by the defendant of the

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1 defendant's rights and the consequences of these decisions.

2 In addition to explaining the rights the defendant
3 will be waiving, or giving up, by way of indictment and
4 pleading guilty at this time, there are a number of questions
5 I must ask you as a representative of the defendant in order
6 to establish that the defendant is, in fact, acting knowingly
7 and voluntarily.

8 If you do not understand these questions, please say
9 so, and I will reword them or clarify them. If you would like
10 to consult counsel at any time, just let me know and we will
11 take a break for you to do that.

12 I'm going to ask my court deputy, Ms. Yu, to please
13 have you stand and raise your right hand and take the oath.

14 THE COURTROOM DEPUTY: Do you swear or affirm that
15 the answers you're about to give in connection to this plea
16 will be the truth, the whole truth and nothing but the truth,
17 so help you God.

18 THE DEFENDANT: I do.

19 (Whereupon, the defendant was sworn/affirmed.)

20 THE COURT: Mr. Reifenberg, what is your current
21 position with the company, the defendant.

22 You may remain seated, sir, and pull the microphone
23 and to make sure it's on.

24 THE DEFENDANT: I'm a managing director in the
25 general counsel function. And I'm the global head of

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1 litigation and investigation.

2 THE COURT: What are your responsibilities in that
3 capacity or those capacities?

4 THE DEFENDANT: I'm the chief litigator of Credit
5 Suisse AG, the global company.

6 THE COURT: Are you admitted to practice law in any
7 courts?

8 THE DEFENDANT: I think New York, yes.

9 THE COURT: How long have you held the position that
10 you just described?

11 THE DEFENDANT: I've been with the bank, this is my
12 16th year. I've been a managing director for ten plus years.

13 I've been global head of litigation, this is my
14 seventh year.

15 THE COURT: Have you been authorized by the board of
16 directors of the defendant to appear in this case on its
17 behalf and to waive indictment and to plead guilty in this
18 case?

19 THE DEFENDANT: I have.

20 THE COURT: Did you gain that authority from the
21 board of director's certificate of corporate resolution, which
22 is attached to the proposed plea agreement as attachment B?

23 THE DEFENDANT: That's right.

24 THE COURT: The Court hereby finds, based on
25 Mr. Reifenberg's representations, and the representations of

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1 all counsel of record, that Mr. Reifenberg is authorized to
2 appear in this case on behalf of the defendant, Credit Suisse
3 (Europe) Limited.

4 Let me now address the charge with some specificity.

5 I say again, sir, this Court has been informed that
6 the defendant wishes to waive indictment and to plead guilty
7 to the sole count of the information pursuant to a written
8 plea agreement.

9 I have a copy of the information in this case
10 charging the defendant with the conspiracy to commit wire
11 fraud in violation of Title 18 of the United States Code,
12 Section 1349.

13 The Court has marked the information as Court
14 Exhibit 1 for identification.

15 May have a motion to have Court 1 admitted into
16 evidence? Motion from the government.

17 MR. MEHTA: So moved, Your Honor.

18 THE COURT: Any objection?

19 MR. HERRINGTON: Without objection.

20 THE COURT: It's admitted.

21 (Court Exhibit 1, was received in evidence.)

22 THE COURT: The information is now admitted in
23 evidence as Court 1.

24 Mr. Reifenberg, were you and the board of directors
25 for the defendant provided a copy of the information in this

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1 case?

2 THE DEFENDANT: Yes, we both were.

3 THE COURT: And have you and the board of directors
4 discussed the charge, as well as the case in general with your
5 attorneys?

6 THE DEFENDANT: Yes, we both have.

7 THE COURT: The information charges the defendant
8 with conspiracy to commit wire fraud. Specifically, the
9 information details a scheme in which the defendant and its
10 coconspirators used United States wires and the United States
11 financial system to defraud the United States of America and
12 international investors in the Ematum, E-M, as in Mary, A-T,
13 as in Thomas, U-M, as in Mary securities.

14 The coconspirators used international and interstate
15 wires to, from, and through the United States of America,
16 including wires through the Eastern District of New York, to
17 transmit false and misleading statements to investors in the
18 Ematum Securities, and it made transfers of proceeds obtained
19 from those investors, and paid kickbacks to Credit Suisse
20 bankers and bribes to Mozambican officials.

21 Does the defendant fully understand the nature of
22 the charges against him?

23 THE DEFENDANT: It does.

24 THE COURT: Do the parties waive the reading of the
25 information? Beginning with the government.

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1 MR. MEHTA: Yes, Your Honor.

2 THE COURT: Defense?

3 MR. HERRINGTON: Yes, Your Honor.

4 THE COURT: Now, Mr. Reifenberg, instead of an
5 indictment, this felony charge have been brought by the filing
6 of an information by the United States Attorney for the
7 Eastern District of New York, the acting chief of the fraud
8 section of the criminal division of the United States
9 Department of Justice, and the chief of the money laundering
10 and asset recovery section of the criminal division of the
11 United States Department of Justice.

12 Defendant has a constitutional right to be charged
13 by way of an indictment returned by a grand jury. The
14 defendant can waive that right and consent to being charged by
15 information.

16 Do you understand that, Mr. Reifenberg?

17 THE DEFENDANT: I do.

18 THE COURT: If the defendant does not waive the
19 indictment, however, the defendant may not be charged with a
20 felony unless a grand jury finds by return of an indictment
21 that there is probable cause to believe that a crime has been
22 committed and that the defendant committed it.

23 You understand that, Mr. Reifenberg?

24 THE DEFENDANT: I do.

25 THE COURT: If the defendant does not waive an

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1 indictment, the government may present this case to the grand
2 jury, and ask the grand jury to indict the defendant. A grand
3 jury is composed of at least 16, but not more than 23 people.

4 Before the defendant may be indicted, at least 12
5 grand jurors must find probable cause to believe the defendant
6 committed the crime with which it is charged. The grand jury
7 might or might not indict the defendant.

8 If you on behalf of the defendant waive indictment
9 by the grand jury, however, the case will proceed against the
10 defendant on the information of the Assistant United States
11 Attorney for the Eastern District of New York just as if the
12 defendant had been indicted.

13 Does the defendant understand its rights to
14 indictment by a grand juror, sir?

15 THE DEFENDANT: It does.

16 THE COURT: Is the defendant willing to waive the
17 right to have this case proceed by way of an indictment and to
18 be indicted by a grand jury?

19 THE DEFENDANT: Yes, we do.

20 THE COURT: Did you and the board of directors
21 discuss this decision with the defendant's attorneys?

22 THE DEFENDANT: We have.

23 THE COURT: Have any threats or promises been made
24 to induce the defendant to waive its right to indictment by
25 way of grand jury?

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1 THE DEFENDANT: No, there has not.

2 THE COURT: Is the defendant waiving its right to
3 indictment voluntarily and of its own free will?

4 THE DEFENDANT: Yes.

5 THE COURT: Counsel, are you aware of any reason
6 that this defendant should not waive indictment?

7 MR. HERRINGTON: I am not, Your Honor.

8 THE COURT: The Court finds, based on the
9 representations of Mr. Reifenberg and of his defense counsel
10 for the company, that the defendant's waiver is made
11 knowingly, intentionally and voluntarily. The Court hereby
12 accepts the waiver of indictment.

13 I've received a copy of the waiver the indictment
14 form and I am signing it now.

15 (Pause in the proceedings.)

16 THE COURT: Here is the waiver the indictment form.

17 Would you please mark this as Court Exhibit 2.

18 Now the Court also has a plea agreement, which I'm
19 going to mark as Court 3 for identification.

20 First let me move the waiver of indictment into
21 evidence.

22 Is there any objection to that coming in from the
23 prosecution?

24 MR. MEHTA: No, Your Honor.

25 THE COURT: From the defense?

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1 MR. HERRINGTON: No, Your Honor.

2 THE COURT: All right, it's admitted.

3 (Court Exhibit 2, was received in evidence.)

4 THE COURT: Now the Court also has a copy of the
5 plea agreement, and we have the signed plea agreement marked
6 as Exhibit 3.

7 Do we have that?

8 MR. MEHTA: Yes, Your Honor.

9 May I approach, Your Honor?

10 THE COURT: Yes, give it to the court deputy,
11 please.

12 This will be marked as Court 3 for identification.

13 Thank you.

14 The plea agreement, marked as Court 3 for
15 identification, has three attachments, attachments A, B and C.

16 May I have a motion to have the plea agreement and
17 the attached accompanying attachments in evidence as
18 Exhibit 3?

19 Moved, government?

20 MR. MEHTA: So moved, Your Honor.

21 THE COURT: Any objection?

22 MR. HERRINGTON: No objection, Your Honor.

23 THE COURT: The agreement is now admitted as Court
24 3.

25 (Court Exhibit 3, was received in evidence.)

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1 THE COURT: Mr. Reifenberg, did you sign this
2 agreement?

3 THE DEFENDANT: I did.

4 THE COURT: Did you and the board of directors have
5 an opportunity to read and discuss the agreement with your
6 attorney before you signed it?

7 THE DEFENDANT: Yes, we both did.

8 THE COURT: Did you and the board have sufficient
9 time to review it with your counsel?

10 THE DEFENDANT: We did.

11 THE COURT: Counsel, did you have sufficient time to
12 review the agreement with your client?

13 MR. HERRINGTON: I did, Your Honor.

14 THE COURT: Mr. Reifenberg, do you have any
15 questions about the agreement?

16 THE DEFENDANT: No.

17 THE COURT: Does the agreement represent the
18 defendant's entire understanding with the government?

19 THE DEFENDANT: It does.

20 THE COURT: Other than the deferred prosecution
21 agreement with the defendant's parent company, which we'll
22 address in the next part of this proceeding, Credit Suisse
23 Group AG, has anyone made any promise or assurance to persuade
24 you to accept this particular agreement on behalf of the
25 defendant?

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1 THE DEFENDANT: No.

2 THE COURT: Has anyone threatened the defendant in
3 any way to persuade the defendant to accept this agreement?

4 THE DEFENDANT: No.

5 THE COURT: Do the parties waive the reading out
6 loud of the plea agreement?

7 Government, do you waive?

8 MR. MEHTA: Yes, Your Honor.

9 THE COURT: Defense counsel, do you waive?

10 MR. HERRINGTON: We do, Your Honor.

11 THE COURT: All right. The waiver is accepted by
12 the Court.

13 Mr. Reifenberg, unless counsel wishes to be heard or
14 has an objection, the Court believes we will now turn to the
15 final procedures for taking the defendant's plea in this case.

16 Mr. Reifenberg, I've already advised you of the
17 charges in the information; that is to say, conspiracy to
18 commit wire fraud.

19 I say again, this is a serious decision and I must
20 be certain that you make it understanding your rights and the
21 consequences of your plea on behalf of the client.

22 Have you and the board of directors had sufficient
23 time to discuss with the defendant's attorney whether or not
24 the plea of guilty?

25 THE DEFENDANT: Yes, we have.

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1 THE COURT: Are you and the board of directors fully
2 satisfied with the representation of counsel and the advice
3 given to the defendant in this case by your attorneys?

4 THE DEFENDANT: Yes.

5 THE COURT: Counsel, have you discussed the matter
6 of pleading guilty with the board of directors of the
7 defendant?

8 MR. HERRINGTON: I have, Your Honor.

9 THE COURT: Counsel, does the defendant understand
10 the rights it will be waiving by pleading guilty?

11 MR. HERRINGTON: Yes, Your Honor.

12 THE COURT: Counsel, have you -- I'm going to ask
13 you to pull the microphone closer so I can hear you more
14 clearly.

15 Counsel, have you advised the defendant of the
16 maximum and minimum fine and restitution that can be imposed
17 in this case?

18 MR. HERRINGTON: I have, Your Honor.

19 THE COURT: As well as the potential penalties,
20 including probation in this case?

21 MR. HERRINGTON: I have, Your Honor.

22 THE COURT: Mr. Reifenberg, the defendant has a
23 right to plead not guilty or to persist in a plea of not
24 guilty. No person or entity can be forced to plead guilty.

25 Do you understand?

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1 THE DEFENDANT: Yes.

2 THE COURT: If the defendant pleads not guilty, the
3 defendant has the right under the constitution and laws of the
4 United States to a speedy and public trial before a jury of
5 its peers with the assistance of its attorney.

6 You understand?

7 THE DEFENDANT: Yes.

8 THE COURT: At any trial, sir, the defendant would
9 be presumed to be innocent. The defendant would not have to
10 prove the defendant was innocent. This is because under the
11 laws of the United States, it is the government that must come
12 forward with proof that establishes beyond a reasonable doubt
13 the defendant is guilty of the crime charged. If the
14 government failed to meet this burden of proof, the jury would
15 have the duty to find the defendant not guilty.

16 You understand?

17 THE DEFENDANT: I do.

18 THE COURT: During the course of a trial, witnesses
19 for the government would have to come here to court and
20 testify in the defendant's presence. The defendant and its
21 representatives would have the right to have their lawyers
22 cross-examine these witnesses.

23 Defense counsel could raise legal objections to the
24 evidence the government sought to offer against the
25 defendants. Defense counsel could offer evidence on the

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1 defendant's behalf if they thought there was evidence that
2 might help the defendant in this case.

3 Defense counsel could compel witnesses to come to
4 court and testify in the presence of the defendant if it
5 thought it would help the defendant's case.

6 Do you understand?

7 THE DEFENDANT: I do.

8 THE COURT: If the defendant wished to go to trial
9 but chose not to testify through its representative, the Court
10 would instruct the jury that it could not hold that against
11 the defendant.

12 Do you understand?

13 THE DEFENDANT: Yes.

14 THE COURT: If instead of going to trial, however,
15 the defendant pled guilty to the crime charged, and if I
16 accept the defendant's guilty plea, the defendant will be
17 giving up the right to a trial and all the other rights I have
18 just discussed.

19 If the defendant pleads guilty, I will have to ask
20 you questions about what the defendant did and where the
21 defendant did it in order to satisfy myself the defendant is,
22 in fact, guilty of the charge to which it seeks to plead
23 guilty.

24 If you answer my questions about the offense under
25 oath on the record and in the presence of counsel, the answers

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1 may later be used against you as the representative in a
2 prosecution for perjury or false statement.

3 Mr. Reifenberg, does the defendant understand each
4 and every one of the rights I've just explained to you?

5 THE DEFENDANT: It does.

6 THE COURT: Is the defendant willing to give up its
7 right to trial and all of the other rights I've just discussed
8 with you?

9 THE DEFENDANT: Yes.

10 THE COURT: I'm now going to discuss some of the
11 possibility penalties to the crime to which the defendant
12 seeks to plead guilty.

13 As set forth in paragraph 16 of the plea agreement,
14 which is in evidence, the reading out loud has been waived by
15 both parties, the defendant faces a statutory maximum possible
16 fine of \$500,000 or twice the gross pecuniary gain or gross
17 pecuniary loss resulting from the offense whichever is
18 greater.

19 The parties have agreed the gross pecuniary loss
20 results from the offense in this case is approximately
21 \$208 million. Therefore, the maximum fine that may be imposed
22 is twice the gross gain or approximately \$416 million.

23 The defendant also faces a potential five-year
24 probation restitution period, restitution in the amount of any
25 victims' losses as ordered by this Court, and a \$400 mandatory

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1 special assessment, which I'm required to assess per count
2 against the corporate entity.

3 You understand this?

4 THE DEFENDANT: I do.

5 THE COURT: Under the Sentencing Reform Act of 1984,
6 the United States of America's Sentencing Commission has
7 issued guidelines for judges to follow in determining the
8 appropriate sentence in a criminal case. These guidelines are
9 advisory, and ordinarily I would consider them along with the
10 particular facts and circumstances of the defendant's case,
11 and all the sentencing factors set forth in Title 18 of the
12 United States Code, Section 3553(a) in determining what an
13 appropriate sentence should be.

14 Mr. Reifenberg, have you and the board discussed
15 with the defendant's attorney how the advisory guidelines
16 might apply to your case?

17 THE DEFENDANT: We have.

18 THE COURT: The parties calculated the guideline
19 fine range in this case, paragraph 18 of the plea agreement.
20 The parties' guidelines calculation results in a fine range of
21 \$291,200,000 to \$582,400,000.

22 Mr. Reifenberg, as I mentioned, ordinarily I would
23 consider the guidelines range in determining the appropriate
24 sentence. However, because of the nature of the defendant's
25 plea in this case, if I accept the guilty plea pursuant to the

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1 plea agreement, I will not apply the advisory guidelines in
2 determining the defendant's sentence.

3 In paragraph 19 of the agreement, the government and
4 the defendant have agreed, pursuant to Rule 11(C) of the
5 Federal Rules of Criminal Procedure to a particular
6 disposition.

7 Defendant's parent company, Credit Suisse Group AG,
8 by entering into a deferred prosecution agreement, which will
9 happen immediately after this plea, has agreed to pay certain
10 sums of money. Specifically, the parent company has agreed to
11 a total criminal penalty of \$247,520,000. \$500,000 of that
12 penalty will be paid as a criminal fine by this defendant
13 Credit Suisse Securities (Europe) Limited.

14 According to the plea agreement, the parent
15 company's payment obligations under the deferred prosecution
16 agreement will be complete upon the payment of \$175,568,000,
17 \$500,000 of which the defendant will pay as a criminal fine
18 pursuant to this agreement, so long as the parent company pays
19 the remaining amount of the total criminal penalties to the
20 United States Securities and Exchange Commission, and the
21 United Kingdom Financial Conduct Authority, the FCA, by the
22 end of one year from the beginning of the term.

23 Is that a correct statement of the agreement?

24 THE DEFENDANT: It is.

25 THE COURT: Is that a correct statement, Mr. Mehta?

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1 MR. MEHTA: Yes, Your Honor.

2 THE COURT: Mr. Reifenberg, pursuant to local
3 Rule 11(C)(1) -- strike that.

4 Mr. Reifenberg, pursuant to Rule 11(c)(1)(C), if, in
5 fact, I accept the guilty plea, I must impose the sentence
6 agreed to by the parties.

7 Do you understand?

8 THE DEFENDANT: I do.

9 THE COURT: However, if I chose not to follow the
10 terms of the agreement relating to the defendant's sentence,
11 then I will give the defendant an opportunity to withdraw its
12 plea of guilty, if provided for.

13 Do you understand that?

14 THE DEFENDANT: I do.

15 THE COURT: If the defendant chooses to withdraw its
16 plea of guilty, it may proceed to trial, as it would have, had
17 it not chosen to plead guilty. However, if the defendant
18 chooses not to withdraw its guilty plea, I may then impose a
19 sentence that is more severe than provided for in the plea
20 agreement.

21 So in other words, I would not be bound by the terms
22 of the plea agreement relating to the defendant's sentence.

23 Is that clear to you?

24 THE DEFENDANT: It is.

25 THE COURT: The defendant is also waiving its right

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1 to appeal. Under some circumstances, a defendant or the
2 government may have the right to appeal any sentence I impose.
3 By entering into this agreement, however, the defendant has
4 waived its right to appeal the sentence, and waived its right
5 to collaterally attack or to challenge its conviction or
6 sentence in this case.

7 Do you understand that, sir?

8 THE DEFENDANT: I do.

9 THE COURT: Is that the understanding of the
10 government?

11 MR. MEHTA: Yes, Your Honor.

12 THE COURT: Mr. Reifenberg, according to the
13 agreement, the defendant is also agreeing not to dispute the
14 statement of facts. It's agreeing, it is agreeing that the
15 statement of facts, which is attached to the plea agreement,
16 which is in evidence attached as Exhibit A, will be admissible
17 against the defendant in any criminal proceeding involving the
18 defendant.

19 The defendant agrees the statement of facts can, in
20 fact, be used in the government's case-in-chief as
21 impeachment. And at any sentencing hearing or other hearing,
22 the defendant waives any right to suppress the statement or to
23 argue it is otherwise inadmissible as evidence.

24 The defendant has also agreed to cooperate with the
25 government and to work with the parent company in fulfilling

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1 the obligations of that company's deferred prosecution
2 agreement.

3 Do you understand all of that, Mr. Reifenberg?

4 THE DEFENDANT: I do.

5 THE COURT: Do you agree with it?

6 THE DEFENDANT: I do.

7 THE COURT: Does the government agree with it?

8 MR. MEHTA: Yes, Your Honor.

9 THE COURT: Are there any other provisions of the
10 agreement the government believes I need to specifically call
11 to the attention of the defendant and to address today?

12 MR. MEHTA: Yes, Your Honor, just the restitution,
13 which is on paragraph 19, Your Honor.

14 THE COURT: Why don't you read that out loud into
15 the record, and we'll make sure the defendant is on board with
16 that. Take your time, keep your voice up.

17 MR. MEHTA: Yes, Your Honor.

18 The defendant and the parent company shall be
19 jointly and severally liable for restitution in the full
20 amount of each victims' losses as determine by the Court at
21 sentencing. And restitution is mandatory pursuant to 18 U.S.
22 Code, Sections 3663(a) and 3664.

23 The defendant agrees to pay restitution in the full
24 amount --

25 THE COURT: A little slower for the court reporter.

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1 MR. MEHTA: -- as determined by the Court.

2 The parties jointly recommend that the Court use an
3 event study methodology to determine the amount of victim,
4 investor losses directly and proximately caused by the fraud
5 scheme that is set out in the information and the statement of
6 facts.

7 The quote, recommended methodology, end quote.

8 Under the recommended methodology, the parties agree
9 that investors who held the EMATUM Securities on April 15th,
10 2016, and/or on April 29th, 2016, may be entitled to
11 restitution because disclosures that partially revealed the
12 fraud scheme, and/or materialization of the risk on those
13 approximate dates, the quote/unquote events, resulted in a
14 specifically significant decline in value of the EMATUM
15 Securities.

16 The quote, proximately harm investors, end quote.

17 The parties agree that: One, the drop in value of
18 the EMATUM Securities attributable to the events was directly
19 and proximately caused by the fraud scheme; two, the
20 recommended methodology fairly and reasonably estimates
21 restitution in this case; and three, the recommended
22 methodology will not complicate or prolong sentencing unduly.

23 The parties agree to recommend that the proximately
24 harmed investors receive restitution in an amount equal to
25 price decline of the EMATUM Securities attributable to the

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1 events under the recommended methodology multiplied by the
2 number of EMATUM Securities the proximately harmed investor
3 held, minus any gain the proxy harm investor realized from any
4 subsequent sale of the EMATUM Securities.

5 The quote, proximately harm investor losses, end
6 quote.

7 The parties agree that the proximately harmed
8 investor losses calculated pursuant to the recommended
9 methodology are not subject to reductions for gains
10 proximately harmed investors may have obtained through having
11 strategies or coupons received from the EMATUM Securities.

12 Should the Court reject the recommended methodology
13 for restitution: One, the defendant and the offices preserve
14 all arguments as restitution; and two, all other provisional
15 plea agreements and the deferred prosecution agreement remains
16 valid and enforceable.

17 THE COURT: Is that agreed to by the defendant?

18 THE DEFENDANT: It is.

19 THE COURT: Is there anything else the government
20 wishes the Court to call to the particular attention of the
21 defendant at this time?

22 MR. MEHTA: Not at this time, Your Honor.

23 THE COURT: Now, Mr. Reifenberg, do you have any
24 questions about the rights the defendant is giving up, the
25 punishment it faces, the terms of the plea agreement, the

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1 nature of the charge, or anything else related to this case?

2 THE DEFENDANT: I do not, Your Honor.

3 THE COURT: Does defense counsel have any questions
4 for the Court at this time?

5 MR. HERRINGTON: I do not, Your Honor.

6 THE COURT: Does the Assistant United States
7 Attorney have any questions for the Court at this time?

8 MR. MEHTA: No, Your Honor.

9 THE COURT: Defense counsel, are you aware of any
10 viable legal defenses to the charge against your client at
11 this time?

12 MR. HERRINGTON: I do not, Your Honor.

13 THE COURT: Mr. Reifenberg, are you ready to plead
14 on behalf of the defendant?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Mr. Reifenberg, what is the defendant,
17 Credit Suisse Securities (Europe) Limited, plea to the sole
18 count of the information, which is conspiracy to commit wire
19 fraud, guilty or not guilty?

20 THE DEFENDANT: Guilty.

21 THE COURT: Is the defendant making this plea of
22 guilty voluntarily?

23 THE DEFENDANT: It is.

24 THE COURT: Is the defendant making this plea of
25 guilty of its own free will?

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1 THE DEFENDANT: Yes.

2 THE COURT: Has anyone threatened the defendant to
3 get it to plead guilty?

4 THE DEFENDANT: No.

5 THE COURT: Has anyone forced the defendant to plead
6 guilty?

7 THE DEFENDANT: No.

8 THE COURT: Other than the plea agreement with the
9 government, and the deferred prosecution agreement between the
10 government and the defendant's parent company, has anyone made
11 any promise that has caused the defendant to plead guilty?

12 THE DEFENDANT: No.

13 THE COURT: Other than as agreed to in the written
14 plea agreement, has anyone made any promise as to what the
15 defendant's sentence will be in this case?

16 THE DEFENDANT: No.

17 THE COURT: Mr. Reifenberg, what did the defendant,
18 Credit Suisse Securities (Europe) Limited, do that makes it
19 guilty of the charges against it in the information?

20 THE DEFENDANT: Your Honor, from approximately 2013
21 to 2016, Credit Suisse Securities (Europe) Limited through
22 certain of its agents and employees, and together with others,
23 knowingly and wilfully agreed to participate in a conspiracy
24 to violate the federal wire fraud statute by participating in
25 a scheme to obtain money by false and fraudulent

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1 representations to investors in certain debt instruments
2 related to projects in Mozambique.

3 Through certain of its employees and agents, Credit
4 Suisse Securities (Europe) Limited caused acts to be committed
5 in furtherance of the conspiracy in the U.S., including in the
6 form of payments and communications made via wires that passed
7 through the Eastern District of New York.

8 THE COURT: What is the time period? Go back to the
9 beginning of statement that you just read.

10 THE DEFENDANT: Sure. Approximately 2013 to 2016.

11 THE COURT: Is that the time period, Mr. Mehta?

12 MR. MEHTA: Yes, Your Honor. The information
13 alleges from in or between June 2013 and at least March 2017,
14 so I think the allocution satisfies that as the time period as
15 well.

16 THE COURT: All right. Are there any additional
17 questions that the government would like me to address to the
18 defendant with respect to the allocution at this point?

19 MR. MEHTA: No, Your Honor.

20 THE COURT: Is there anything else defense counsel
21 would like the Court to ask the defendant at this point?

22 MR. HERRINGTON: Your Honor.

23 THE COURT: Is there anything else the defendant
24 would like to say to the Court at this point?

25 THE DEFENDANT: No, Your Honor.

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1 THE COURT: Based on the information provided to
2 this Court, as well as the representations of Mr. Reifenberg,
3 defense counsel, and the government, I find that the
4 defendant, Credit Suisse Securities (Europe) Limited, is, in
5 fact, aware of the nature of the charge and the consequence of
6 its guilty plea, and that the plea of guilty is a knowing and
7 voluntary plea and is supported by an independent basis of
8 fact containing the central elements of the offense, and I
9 therefore accept the plea of guilty of the defendant, Credit
10 Suisse Securities (Europe) Limited, to the sole count of the
11 information.

12 Pursuant to paragraph 21 of the plea agreement, I
13 understand that the parties would like to waive the
14 preparation of a presentence report and schedule a sentencing
15 hearing in the absence of a presentence report.

16 Is that correct, Mr. Mehta?

17 MR. MEHTA: Yes, Your Honor.

18 THE COURT: Is that correct, defense counsel?

19 MR. HERRINGTON: Yes, Your Honor.

20 THE COURT: Is that correct, Mr. Reifenberg?

21 THE DEFENDANT: It is.

22 THE COURT: All right.

23 I understand you want a date approximately five
24 months out; is that correct?

25 MR. MEHTA: Yes, Your Honor.

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1 THE COURT: All right, let me ask my courtroom
2 deputy what availability we have approximately five months out
3 in terms of date and time.

4 Speak into the microphone, Ms. Yu.

5 THE COURTROOM DEPUTY: Judge, we have Wednesday,
6 March 9th, 2022, at noon.

7 THE COURT: You can stop there.

8 Does that work for the government, Wednesday
9 March 9th?

10 MR. MEHTA: Yes, Your Honor.

11 THE COURT: Does that work for defense counsel and
12 for the defendant?

13 MR. HERRINGTON: Yes, Your Honor.

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right, that's when we will schedule
16 the sentencing hearing, and that will be in the absence of a
17 PSR.

18 Now, is there anything further that either counsel
19 wishes to state to the Court today, for the government, on
20 this matter?

21 MR. MEHTA: No, Your Honor.

22 THE COURT: Defense counsel?

23 MR. HERRINGTON: Your Honor, I would just very
24 briefly observe. One of the reasons that we agreed to five
25 months was an appropriate start --

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1 THE COURT: Go slower and into the mic. Go ahead.

2 MR. HERRINGTON: For the reasons that the government
3 and I agreed that five months was an appropriate time to allow
4 before sentencing, was: First, because of the restitution
5 process that Mr. Mehta just read; and then secondly, Credit
6 Suisse Securities -- well, Credit Suisse, will actually be
7 seeking a waiver from the Department of Labor related to its
8 ability to manage ERISA retirement funds.

9 So we will be making that application very promptly,
10 and we will keep the Court apprised of progress on that within
11 the Department of Labor. The disqualification takes place at
12 sentencing, which is why the scheduling of the sentencing and
13 the Department of Labor's processing of the labor has some
14 relevance to each other.

15 THE COURT: Thank you, counsel.

16 Is that acceptable, Mr. Mehta?

17 MR. MEHTA: Yes, Your Honor.

18 THE COURT: All right.

19 Anything else from defense counsel?

20 MR. HERRINGTON: No, Your Honor.

21 THE COURT: Anything else from you, sir?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right, this matter then is concluded
24 and this matter is adjourned.

25 I thank you all. Are we prepared to go without a

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1 break to the second matter, or do the parties wish to take a
2 ten-minute comfort break? It's up to you.

3 MR. HERRINGTON: No break required, Your Honor.

4 MS. MOESER: We're fine, Your Honor.

5 THE COURT: Ready to roll on?

6 MS. MOESER: Yes, sir.

7

8 (Whereupon, the matter was concluded.)

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13 I certify that the foregoing is a correct transcript from the
14 record of proceedings in the above-entitled matter.

15 s/ Linda D. Danelczyk

October 19, 2021

16 LINDA D. DANELCZYK

DATE

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